

(3) Station master; and

(4) Mail and baggage.

(B) The common costs in these sub-accounts, exclusive of material, shall be apportioned on the ratio of commuter service units in the designated area to the total units in the designated area for the respective units:

(1) Weighted ticket sales;

(2) Passenger on-off count (including pass riders);

(3) Trains stopping at stations in the designated area; and

(4) Units of mail and baggage handled.

The common material costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in these accounts exclusive of material determined above to the railroad's total for these accounts in the designated area.

(xi) *Administration.* The common costs assigned to these accounts shall be apportioned on the ratio of the commuter service amounts in all other transportation accounts in each sub-category except Fringe Benefits and Communication Systems Operations to the railroad's total for these accounts (including the applicable freight accounts) in the designated area.

(xii) *Communication System Operations.* The common costs assigned to these accounts shall be apportioned on the ratio of the total commuter service amounts in the Administration accounts section (§ 1157.7(f)(3)(xi)) assigned to commuter service to the railroad's total for these accounts (including the applicable freight accounts) in the designated area.

(4) *General and Administrative—Fringe Benefits.* Fringe benefits shall be separated between pensions and Health and Welfare benefits with a further separation between running, switching and other. The costs assigned to these accounts for pensions shall be the actual costs that are directly attributable to commuter service. Health and Welfare benefits shall be assigned to commuter service on the ratio of the commuter service amounts in the respective salary and wage accounts to the railroad's system total for these accounts. Expenses for entertainment facilities for personal use shall only be included in Health and Welfare benefit costs where

it can be clearly demonstrated that the cost was commuter service related.

(g) *Performance Standards—Penalties and Incentives.* The subsidy agreements may include reasonable provisions as agreed by the parties for penalties for service inferior to stipulated performance standards and incentive payments for superior performance. Penalties withheld from subsidy payments by the subsidizer under such agreements shall be treated as reductions of avoidable costs and incentive payments shall be treated as additions to avoidable costs.

[44 FR 16411, Mar. 19, 1979, as amended at 45 FR 45, Jan. 2, 1980; 45 FR 20107, Mar. 27, 1980. Redesignated at 47 FR 49582, Nov. 1, 1982; 54 FR 38998, Sept. 22, 1989]

§ 1157.8 Valuation of rail properties.

The value of rail properties on which a reasonable return is allowed shall consist of:

(a) The net book value of equipment furnished by the contracting carrier for commuter service, after deduction of accrued depreciation; and

(b) The value of rail properties on which a reasonable return is allowed when the commuter service is the minority user shall consist of the net book value of those roadway and structures properties which are used in commuter service and could be disposed of if the commuter service were discontinued. The net book value shall include the net liquidation value of the properties as of April 1, 1976, determined for their highest and best use for other than rail transportation purposes, plus the value of additions and betterments completed after that date for commuter service. From this amount is subtracted any depreciation accrued from that date and all costs of modifying remaining properties so that non-commuter operations can be continued over them. It shall not include the value of properties owned by public bodies; or of properties owned by the trustees of debtor estates if such properties are entitled to a return computed under § 1155.9;

(c) When the commuter service is the dominant user, it shall be entitled to a return on the values of properties and equipment which could be disposed of if the minority service(s) were discontinued. The value applied to each line

segment shall be the acquisition price paid by the commuter authority to Conrail, plus the value of additions and betterments after acquisition for the minority service, less depreciation accrued from the time of acquisition. From this amount is subtracted all costs of modifying remaining properties so that commuter operations can be continued over them.

(d) If the book values of road or equipment property are adjusted upward or downward as a result of final orders of the special court, such adjusted values shall be reflected in future subsidy payments, but without retroactive effect.

[45 FR 47, Jan. 2, 1980. Redesignated at 47 FR 49582, Nov. 1, 1982]

§ 1157.9 Reasonable return on the value of the properties.

The reasonable return shall be 7.5 percent per annum on the sum of the appropriate elements of the investment base computed in accordance with § 1157.8. When the commuter authority is the owner, the 7.5 percent per annum return represents a charge to the other user(s).

[45 FR 47, Jan. 2, 1980. Redesignated at 47 FR 49582, Nov. 1, 1982]

§ 1157.10 Additional rail passenger service.

(a) As used in this section, the term “additional rail passenger service” means rail passenger service other than rail passenger service provided pursuant to sections 304(e)(2) and (4) of the 3R Act, as amended. It includes extended or expanded service and modified routings, which is to be provided over rail properties conveyed to Conrail pursuant to Section 303(b)(1) of the 3R Act, as amended, or over rail properties contiguous to properties conveyed to Amtrak, or any other rail properties contiguous to properties to which a State (or local or regional transportation authority) has obtained access.

(b) If a State (or a local or regional transportation authority in the region offers to provide payment for the provision of additional rail passenger service, Conrail shall undertake to provide the additional service consistent with the discontinuance provisions con-

tained in section 304(e)(2) of the 3R Act, as amended.

(c) An offer to provide payment for the provision of additional rail service shall be made in accordance with section 304(c)(2)(A) of the 3R Act, as amended, and pursuant to §§ 1157.6–1157.9 of these regulations. The offer shall be designed to avoid any additional costs to Conrail arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification.

(d) The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties other than those designated for conveyance to Amtrak pursuant to section 206(c)(1)(C) and 206(c)(1)(D) of the 3R Act, as amended, and to Conrail pursuant to section 303(b)(1) of the 3R Act, as amended, necessary to provide the additional rail passenger service. The State shall also demonstrate that it has completed or will complete prior to the inception of the additional rail passenger service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail service, including rail freight service. Assurance is required that the additional service will not detract from the level and quality of existing rail passenger and freight service.

(e) Conrail shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

APPENDIX I—SUBSIDY ESTIMATE

The following information is required to be furnished under § 1157.3(b) in accordance with the methodology set forth in §§ 1157.3 through 1157.9. The base period data shall be shown for each item.

REVENUES ATTRIBUTABLE FOR BASE PERIOD

1. Passenger
2. All Other
3. Total Revenues Attributable (lines 1 plus 2)

AVOIDABLE COSTS FOR

4. Maintenance of Way and Structures